

G. Thooly



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Constantine N. Polities & Co.
File: B-237413
Date: October 25, 1989

DIGEST

Protest that request for proposals should have authorized submission of telefax offers is untimely where not filed until after the due date for receipt of initial proposals.

DECISION

Constantine N. Polites & Co., protests any award of a contract under request for proposals (RFP) No. N00406-89-R-1179, issued by the Naval Supply Systems Command. We dismiss the protest as untimely.

According to Polites, the RFP was issued on August 24, 1989, mailed by the Navy on September 12 and received by Polites on September 16. The closing date for receipt of initial offers under the RFP was October 2. Polites states that on September 28 it verbally requested permission to transmit its offer by telefax, but the contract negotiator indicated that such a request could not be authorized. Polites' offer, sent by first class mail, was received by the Navy on October 3 and rejected as late. Polites protested to our Office on October 12.

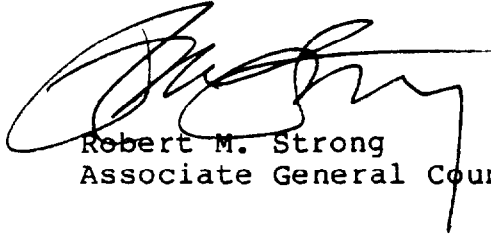
Polites contends that the RFP should have authorized submission of telefax offers. Polites asserts that, in this case, a telefax offer transmission was the only means by which an offeror could have assured timely receipt by the agency.

Polites' protest that telefax offers were not permitted concerns an alleged apparent solicitation impropriety. Our Bid Protest Regulations require that such protests be filed prior to the closing date for receipt of proposals. 4 C.F.R. § 21.2(a)(1) (1989). Davis Constructors, Inc., B-232954; B-232955, Jan. 12, 1989, 89-1 CPD ¶ 40. Since Polites did not protest until October 12, after the

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October 2 closing date, its protest is untimely and will not be considered on the merits.

The protest is dismissed.



Robert M. Strong
Associate General Counsel